

Message Text

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44

ACTION AF-18

INFO OCT-01 EUR-25 NEA-10 ISO-00 SY-10 IO-14 CIAE-00

DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04

RSC-01 PRS-01 SPC-03 SS-20 USIA-15 ACDA-19 SCA-01

OMB-01 DRC-01 /177 W

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R 261140Z NOV 73

FM AMEMBASSY KHARTOUM

TO SECSTATE WASHDC 7409

INFO AMEMBASSY BRUSSELS

USINT CAIRO

C O N F I D E N T I A L KHARTOUM 2560

E.O. 11652: GDS

TAGS: PINS, SU

SUBJ: KHARTOUM ASSASSINATIONS: MAGISTERIAL INQUIRY

REF: KHARTOUM 2510

1. BEGIN SUMMARY: DEFENSE CHALLENGED COURT JURISDICTION NOV 24 ON GROUND PREVIOUS GOS SUPPORT GD PALESTINIAN ACTIVITIES. NEXT SESSION SCHEDULED FOR DEC. 2 FOLLOWING MAGISTRATE AND PROSECUTION STUDY OF DEFENSE STATEMENT. END SUMMARY.

2. THE PROCEEDINGS: MGAISTERIAL INQUIRY SESSION NOV. 24 CONSISTED OF LONG EXPOSITION BY DEFENSE COUNSEL CHALLENGING SUDANESE LEGAL JURISDICTION ON GROUND PRESIDENT NIMEIRI HAD ON NUMEROUS OCCASIONS PRIOR MARCH 1973 STATED GOS FULL SUPPORT TO PALESTINIAN COMMANDOES AND ACTS CARRIED OUT BY PALESTINIAN ORGANIZATIONS TO REGAIN HOMELAND.

DEFENSE READ STATEMENTS BY NIMEIRI BOTH DOMESTICALLY AND AT INTERNATIONAL MEETINGS SUCH AS OAU AND CONTENDED THAT SINCE GOS POLICY HAJSBEEEN TO SUPPORT PALESTINIANS, THERE IS NO BASIS FOR TRIAL OF PALESTINIAN LIBERATION ACT COMMITTED IN
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SUDAN. DEFENSE ALSO STATED ANY TRIAL WOULD PRESENT "VICTORY"

FOR US WHICH AS MAJOR ENEMY HAS ATTEMPTED COMBAT
PALESTINIAN ACTIVITIES AND SUDAN PENAL CODE NOT APPLICABLE
SINCE IT DATES FROM 1925 AND DOES NOT COVER "POLITICAL"
CRIMES. MAGISTRATE SUBSEQUENTLY ADJOURNED SESSION TO DEC. 2 TO
STUDY CONTENTION AND PERMIT PROSECUTION MAKE REBUTTAL.

3. LEGAL COMMENT: EMB LEGAL ADVISOR STATES DEFENSE
ARGUMENT IRRELEVANT AND MAGISTRATE, RATHER THAN PROVIDING
OPPORTUNITY TO CONSIDERATION AND REBUTTAL, COULD HAVE
REJECTED IT. MAGISTRATE CONHNCUES HANDLE CASE CAUTIOUSLY.

S4. BACKGROUND: EMB UNDERSTANDS DEFENSE COUNSEL MEMBERS
TAKEN BY SURPRISE BY DECISION OF CURRENT ACTING HEAD DEFENSE
COUNSEL (WANNI) TO ADOPT NIMEIRI-SPEECH TACTIC RATHER
THAN CHALLENGE JURISDICTION ON GROUNDS ACT ACCRIED OUT IN
FOREIGN EMBASSY (ON WHICH DEFENSE ATTORNEYS HAD PREPARED
STATEMENT). SWITCH APPARENTLY FOLLOWED ARRIVAL IN
KHARTOUM OF EGYPTIAN JUDGE OF PALESTINIAN ORIGIN (ABU
SHAWA) WHO MAY HAVE TRANSMITTED SOURCE MATERIAL AND
PLO INSHVUCTIONS. ABU SHAWA ATTENDED SESSION BUT TOOK NO
OVERT ROLE. HE IS PROBABLE STAND-IN FOR DESIGNATED ARAB
DEFENSE LAWYERS TO WHOM GOS REFUSES ISSUE VISAS.
TERRORIST RADZIK QAS MADE NO STATEMENT AT THIS SESSION.
WHENT IT APPEARED HE WOULD SPEAK (POSSIBLY TO PROTEST)
FOLLOWING DECISION ADJORN TO DEC. 2, PLO REP ABU KHEIR
MOTIONED HIM TO BE QUIET.

5. COMMENT: ATTENDANCE AND OFFICIAL MEDIA COVERAGE REMAINS
LIMITED (AS PER KHARTOUM 2525). IT APPEARS TO US PLO HAS LITTLE
TO GAIN AND CONSIDERABLE TO LOSE BY AUTHORIZING THE IMPLICITLY
ANTI-NIMEIRI STATEMENT MADE ON NOV. 24. EMB OBTAINING TEXT.
BREWER

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